

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JAMES HUNT WARCLOUD, et al.	:	CIVIL ACTION
	:	
v.	:	
	:	
MARTIN F. HORN, et al.	:	NO. 97-3657

**MEMORANDUM AND ORDER**

HUTTON, J.

May 5, 1999

Presently before the Court are Plaintiff Four Deer Walking's Motion for a Stay of the Pending Motion for Summary Judgment of Defendant Corrections Officials (Docket No. 97), the Commonwealth Defendants' Response (Docket No. 99), and the Plaintiff's Reply (Docket No. 108). For the reasons stated below, the Plaintiff's motion is **DENIED**.

**I. BACKGROUND**

This case originated on July 1, 1997. The sole remaining claim in this action is that of Plaintiff, James Four Deer Walking Robinson ("Robinson" or "Plaintiff"), for injunctive relief against the Defendants.<sup>1</sup> Robinson is an inmate at the Pennsylvania State

---

<sup>1</sup>The Complaint names the following parties as defendants: (1) Commissioner of the Pennsylvania Department of Corrections ("DOC") Martin F. Horn; (2) DOC Deputy Commissioner, Jeffrey A. Beard; (3) DOC Religious Services Administrator, Reverend Francis T. Menei; (4) unknown persons on the DOC Religious Advisory Committee; (5) Graterford Superintendent Donald Vaughn; (6) DOC Graterford Deputy Superintendent David Diguglielmo; (7) DOC Graterford Deputy Superintendent Michael Lorenzo; and (8) the Graterford Chaplaincy Program Director, Reverend Edward A. Neiderhiser. The defendants are referred to herein as, the "Corrections Officials" or "Defendants."

Correctional Institution at Graterford ("Graterford"). Robinson is a Native American,<sup>2</sup> and he is a practitioner of the Native American 'spirituality' (religion). Robinson alleges that the defendants violated his First Amendment right to practice his religion and his Fourteenth Amendment right to equal protection.

On February 22, 1999, the Defendant Corrections Officials filed a Motion for Summary Judgment. In response to that motion, the Plaintiff filed on March 10, 1999, a Motion for a Stay of the Defendant Corrections Officials' Motion for Summary Judgment. The Defendants filed a Response to the Plaintiff's Motion for a Stay on March 11, 1999. The Plaintiff filed a Reply on March 30, 1999. The Court now considers the Plaintiff's Motion for a Stay of the Defendant Corrections Officials' Motion for Summary Judgment.

## **II. DISCUSSION**

### **A. Stay Proceedings**

"The power to stay proceedings is incidental to the power inherent in every court to schedule disposition of the cases on its docket so as to promote fair and efficient adjudication." Gold v. Johns-Manville Sales Corp., 723 F.2d 1068, 1077 (3d Cir. 1983). "How this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance." Landis v. North Am. Co., 299 U.S. 248, 255 (1936). "In maintaining

---

2. Robinson states that he is "Cherokee/European (Native American)." (Pls.' Compl. ¶¶ 14.)

that even balance, the Court must consider whether 'there is even a fair possibility that the stay would work damage on another party.'" Dentsply Int'l, Inc. v. Kerr Mfg. Co., 734 F. Supp. 656, 658 (D. Del. 1990) (quoting Gold, 723 F.2d at 1076; Landis, 299 U.S. at 255). If so, the plaintiff must "demonstrate 'a clear case of hardship or inequity'" before the stay may be issued. Gold, 723 F.2d at 1075-76 (quoting Landis, 299 U.S. at 255).

In this case, the Defendants would be prejudiced if this Court granted a stay, because of the resulting delay in the litigation. See Dentsply Int'l Inc., 734 F. Supp. at 658 (finding plaintiff would suffer prejudice if trial was delayed). The Defendants have incurred all of the costs and expense of preparing for trial for this action. Thus, the issue before the Court is whether Plaintiff can demonstrate "a clear case of hardship or inequity" necessary to grant a stay. Gold, 723 F.2d at 1075-76 (quoting Landis, 299 U.S. at 255).

#### **B. Plaintiff's Motion**

In his motion, the Plaintiff essentially asserts two justifications for this Court staying the Defendants' pending summary judgment motion. First, the Plaintiff contends that he will be seeking this Court's permission to "Amend his Complaint" to add unspecified additional matter and to add:

an additional defendant named: "Michelle Leonard" once known as "Unknown Named Person(s), individually and as

Native American Representative residing on Religious  
Advisory Committee/Board of the DOC of PA.

The Plaintiff claims that the Defendants denied him this name but indirectly provided the name during discovery. Second, the Plaintiff asserts that he is unable to fully respond to Defendants' pending summary judgment motion until such time as he is provided with the documents he is seeking through discovery. The Plaintiff claims that he has not received discovery already requested from the Defendants. He also asserts that he must submit interrogatories, request for production of documents, and be able to depose Deputy Superintendent Gregory Rosas, whom now holds the official position of Deputy Superintendent for Centralized Services at Graterford. Deputy Superintendent Rosas replaced Deputy Superintendent DiGuglielmo, who is now Deputy Superintendent for Facilities Management of Graterford. The Court will now consider the Plaintiff's arguments in turn.

#### **1. Amend Complaint**

Pursuant to Rule 15(a) of the Federal Rules of Civil Procedure: "A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served." Fed. R. Civ. P. 15(a). Because the Plaintiff would be seeking to amend his complaint after the Defendants served their responsive pleading, the Plaintiff "may amend [his complaint] only by leave of court." Fed. R. Civ. P. 15(a). Rule 15(a) clearly states that,

"leave shall be freely given when justice so requires." "Among the grounds that could justify a denial of leave to amend are undue delay, bad faith, dilatory motive, prejudice, and futility." In re Burlington Coat Factory Secs. Litig., 114 F.3d 1410, 1434 (3d Cir. 1997) (citations omitted); see Lorenz v. CSX Corp., 1 F.3d 1406, 1413 (3d Cir. 1993) (quoting Foman v. Davis, 371 U.S. 178, 182 (1962)).

Here, the Defendants argue that it would be unfair to delay disposition of the pending summary judgment motion based on a statement of an intent to file a futile motion to amend. The Third Circuit has determined that "futility" means that the complaint, as amended, would fail to state a claim upon which relief could be granted. In re Burlington Coat Factory Securities Litigation, 114 F.3d 1410, 1434 (3d Cir. 1997) (citing Glassman v. Computervision Corp., 90 F.3d 617, 623 (1st Cir. 1996)) (citing 3 Moore's Federal Practice P 15.08[4], at 15-80 (2d ed.1993)). In assessing "futility," the district court applies the same standard of legal sufficiency as applies under Rule 12(b)(6). Glassman, 90 F.3d at 623 (citing 3 Moore's at P 15.08[4], at 15-81). Therefore, the Court may refuse to allow an amendment that fails to state a cause of action because it would not survive a motion to dismiss. Adams v. Gould, Inc., 739 F.2d 858, 864 (3d Cir. 1984).

In the present case, no Native-American Religious Advisory Committee or Board of the Department of Corrections

currently exists. (See Defs.' Resp. 2.) The Committee ceased to exist at the time Martin Horn became Commissioner of Corrections. (Id.) Prior to that time, Leonard participated in the Committee. (Id.)

Lewis' name was provided to the Plaintiff in response to the Plaintiff's May 1998 interrogatory asking Rev. Neiderhiser to identify all communications that he had with or about a long list of individuals, including Michelle Leonard. Neiderhiser responded in June of 1998, that he had met Leonard at a DOC meeting about six years earlier. Thus, the DOC meeting occurred in 1992. Currently, Lewis is not an agent or employee of the Department of Corrections. Because any suit against Lewis could not reasonably be related to Plaintiff's claim for injunctive relief against the Defendants, allowing the Plaintiff to add Lewis to his complaint would be a futility. Moreover, this Court has already noted the prejudice that would befall the Defendants in delaying the disposition of their summary judgment motion. Accordingly, this Court will not stay the pending summary judgment motion so that the Plaintiff can amend his complaint.

## **2. Conduct Discovery**

Under the Federal Rules of Civil Procedure and in the United States Court of Appeals for the Third Circuit, district courts have broad discretion to manage discovery. See Sempier v. Johnson, 45 F.3d 724, 734 (3d Cir. 1995). As this Court has

previously noted, the Defendants have complied with all of Plaintiffs' discovery requests served upon them. Specifically, the Court has found that the Plaintiff has received a copy of all relevant DOC and Graterford policies that apply to him.

The Plaintiff has already disputed the discovery issues and lost. Indeed, this Court has denied Plaintiff's motion to compel additional discovery and denied his motion for reconsideration of that Order. Thus, it would be entirely unfair to the Defendants for the Court to stay ruling on the pending summary judgment motion and permit the Plaintiff additional discovery that the Court has already considered in denying the Plaintiff's motion to compel. The Court will, therefore, not stay the pending summary judgment motion so that the Plaintiff can conduct more discovery.

### **III. CONCLUSION**

For the aforementioned reasons, the Plaintiff has failed to show a clear case of hardship or inequity in the absence of the Court postponing the litigation. As such, this Court denies Plaintiff's motion to stay the proceedings.

An appropriate Order follows.

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JAMES HUNT WARCLOUD, et al.	:	CIVIL ACTION
	:	
v.	:	
	:	
MARTIN F. HORN, et al.	:	NO. 97-3657

O R D E R

AND NOW, this 5th day of May, 1999, upon consideration of Plaintiff Four Deer Walking's Motion for a Stay of the Pending Motion for Summary Judgment of Defendant Corrections Officials (Docket No. 97), the Commonwealth Defendants' Response (Docket No. 99), and the Plaintiff's Reply (Docket No. 108), IT IS HEREBY ORDERED that the Plaintiff's Motion is **DENIED**.

BY THE COURT:

---

HERBERT J. HUTTON, J.